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January 8, 2016

The Honorable Charles R. Breyer
United States District Judge
Phillip Burton Federal Building
450 Golden Gate Avenue
San Francisco, California 94102

Re: In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability
Litigation, MDL No. 2672 CRB (JSC)

Dear Judge Breyer:

In accordance with Your Honor's Pretrial Order Nos. 1 and 2, I hereby respectfully apply to be appointed as one of the plaintiffs' lead counsel or, in the alternative, as a member of plaintiffs' steering committee in MDL No. 2672.¹ In this letter, I address the criteria for appointment set forth by the Court.

1. **Professional Experience.** I have practiced law in California for more than 40 years, representing both plaintiffs and defendants in complex civil litigation. I have served as lead counsel and a member of plaintiffs' executive committees in numerous MDL proceedings, class actions and other complex cases, including the following:

In the *In re Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation*, I was appointed by the Court to serve as one of the three co-lead counsel for the economic loss class action plaintiffs. After several years of hard fought litigation, an historic settlement was reached valued by the Court at approximately \$1.6 billion.

In Re General Motors LLC Ignition Switch Litigation, I was appointed by the Court to serve on the plaintiffs' Executive Committee. The case is currently in litigation.

In re Korean Air Lines Co., Ltd. Antitrust Litigation, consisting of more than eighty consolidated antitrust class action cases, I was appointed by the Court to serve as one of the co-lead counsel for the class. The case was settled for \$86 million, consisting of \$50 million in cash and \$36 million in travel vouchers.

¹ My firm and I are counsel of record for plaintiffs in the following class action cases included in these MDL proceedings which either have been or will be transferred to this Court: *Hill, et al. v. Volkswagen Group of America, Inc., et al.*, Case No. 15-cv-07517-CRB (transferred from C.D. Cal); *Pomerantz, et al. v. Volkswagen Group of America, Inc. et al.*, Case No. 15-01425-LO-MSN (E.D. Va.); *Santos, et al. v. Volkswagen Group of America, Inc. et al.*, Case No. 15-13864-GER-APP (E.D. Mich.); *Goodwin, et al. v. Volkswagen Group of America, Inc. et al.*, Case No. 15-cv-06144-CRB (N.D. Cal.).

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In the *In Re Universal Service Fund Telephone Billing Practices Litigation*, which involved more than fifty consolidated class action cases, I served as one of the co-lead counsel for plaintiffs. The case was settled as to one defendant and tried to a verdict as to the remaining defendant.

In *Schulein, et al. v. Petroleum Development Corp., et al.*, I served as lead counsel for the plaintiffs in a class action brought on behalf of more than 7000 limited partners who invested in the 12 limited partnerships. The case was settled on the eve of trial for \$37.5 million.

In *Masimo Corp. v. Tyco Healthcare Group L.P.*, an antitrust case brought under Sections 1 and 2 of the Sherman Act and Section 3 of the Clayton Act, I served as co-trial counsel for the plaintiff. The case was tried to a verdict in favor of the plaintiff.

In *Clark v. AdvanceMe, Inc.*, a class action case challenging financial arrangements with retail merchants under California's laws against usury, I served as lead counsel for the class. The case was settled for approximately \$23.4 million in cash and other economic consideration.

In *White v. NCAA*, an antitrust class action, I served as co-lead counsel for the plaintiff class. The case was settled for benefits for the class estimated to be worth \$220 million.

In the *In re Structured Settlement Litigation*, which consisted of consolidated class and individual actions brought in the Los Angeles Superior Court, I served as one of the lead counsel for the plaintiffs. The case was settled for \$130 million.

In *Motorcar Parts & Accessories Securities Litigation*, which involved fourteen consolidated securities fraud class actions, I was appointed by the Court to serve as sole lead counsel for the class. The case was settled for \$7.5 million.

In the *In re ZZZZ Best Securities Litigation*, I was appointed by the Court to serve as sole lead counsel to represent the plaintiff class. The case was settled for approximately \$40 million.

2. ***Names and contact information for Judges.*** Hon. James V. Selna presided over the *In Re Toyota Motor Corp. Unintended Acceleration Markings, Sales Practices, and Products Liability Litigation*, (714) 338-2848; Hon. Jesse M. Furman is presiding over *In Re General Motors LLC Ignition Switch Litigation*, (212) 805-0282; Hon. Valerie Baker Fairbank presided over *White v. NCAA* and *Clark v. AdvanceMe*, (213) 894-0066; Hon. Peter D. Lichtman (Retired) presided over *In Re: Structured Settlement Litigation*, (213) 620-1133; Hon. Andrew J. Gilford is presiding over *Schulein, et al. v. Petroleum Development Corp., et al.*, (714) 338-4757; Hon. S. James Otero is presiding over *In re Korean Air Lines Co., Ltd. Antitrust Litigation*, (213) 894-1796; Hon. John W. Lungstrum presided over *In Re Universal Service Fund Telephone Billing Practices Litigation*, (913) 735-2320; Hon. Manuel L. Real presided over *In re Motorcar Parts & Accessories, Inc. Securities Litigation*, (213) 894-5696; Hon. Ronald S. W. Lew presided over *In Re ZZZZ Best Securities Litigation*, (213) 894-2682; and Hon. Dickran Tevrizian (Retired) served as the settlement judge in the *ZZZZ Best* case, (213) 620-1133.

3. ***Willingness and Ability to Immediately Commit to Time Consuming Litigation.*** If I am appointed by the Court to serve as lead counsel or a member of the steering committee, my firm and I am willing and able and willing to immediately dedicate whatever time and resources are necessary to successfully oversee and prosecute these cases.

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4. ***Willingness and Ability to Work Cooperatively with Counsel.*** I believe that throughout my career I have demonstrated an ability to work cooperatively and collegially with co-counsel and opposing counsel. I believe I have also earned the respect, trust and confidence of other plaintiffs' counsel and my opposing counsel.

5. ***Access to Recourses.*** My firm has 115 attorneys in offices located in Los Angeles, Houston, Seattle and New York. My law firm is committed to deploy whatever time and financial resources are necessary to successfully prosecute these cases in a timely and efficient manner. As one of the largest law firms in the country handling contingent litigation on behalf of plaintiffs, my firm has represented clients in some of the largest and most complex cases ever litigated and has demonstrated that it has the ability and resources to oversee the prosecutions of these cases. I have assembled a team of experienced trial lawyers from my firm, including Stephen D. Susman, to provide the resources needed for this important litigation.

6. ***Willingness to Serve.*** I am willing to serve as lead counsel or as a member of plaintiffs' steering committee.

7. ***Categories of Plaintiffs.*** My firm has filed actions on behalf of consumers from 32 states who purchased or leased vehicles at issue in this litigation. If appointed, I would seek to continue to represent consumers who purchased or leased the subject vehicles.

8. ***Other Consideration.*** Our law firm places a premium on litigating cases in a cost efficient manner. To that end, we have employed a number of innovative procedures, including those described in Steve Susman's "trial by agreement" stipulations which are designed to avoid needless disputes among litigants and their counsel. We also are fortunate enough to have attracted extraordinarily talented lawyers to join our firm. Ninety percent of our one hundred attorneys served as law clerks for the federal judiciary, including nine who are former United States Supreme Court law clerks. We are also known as trial attorneys. We are often brought in on the eve of trial to "rescue" troubled cases or to take the reins when the case requires trial lawyers with a proven record of courtroom success. Further information about my firm is available at www.susmangodfrey.com.

I would be honored to serve in a leadership capacity in this litigation. I believe I would bring to bear the experience and leadership skills needed to navigate this litigation to a successful conclusion.

Respectfully,



Marc M. Seltzer

Attached as Exhibit A is a two-page resume.

Attached as Exhibit B is a list of the counsel who have filed cases included in this MDL who support my application.